

1 **STATE OF GEORGIA**
2 **COUNTY OF FULTON**
3 **CITY OF SOUTH FULTON**

ORD2019-028

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7 **AN ORDINANCE AMENDING TITLE 6, HEALTH AND SANITATION, OF THE CITY**
8 **CODE OF ORDINANCES; TO ENHANCE PUBLIC SAFETY AND PROPERTY**
9 **VALUES; TO ADDRESS NUISANCE ISSUES RELATING TO OLD TREES AND FOR**
10 **OTHER LAWFUL PURPOSES.**

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12 **(Sponsored by Councilpersons Jackson, Gumbs & Gilyard)**

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14 **WHEREAS**, the City of South Fulton ("City") is a municipal corporation duly
15 organized and existing under the laws of the State of Georgia;

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17 **WHEREAS**, the duly elected governing authority of the City is the Mayor and
18 Council thereof ("City Council");

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20 **WHEREAS**, the City Council has a strong interest in growth management and
21 the promotion of health, safety, aesthetics and the general welfare of the community;

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23 **WHEREAS**, pursuant to O.C.G.A § 41-2-1 et al. and City Charter Sections
24 1.12(b)(24) and 3.10(a), the City is authorized to abate nuisances and regulate property
25 that is detrimental to the health, sanitation, cleanliness, welfare, and safety of the
26 inhabitants of the City; and

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28 **WHEREAS**, the City Council finds this ordinance to be in the best interests of the
29 health, safety, and general welfare of the City.

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31 **THE MAYOR AND COUNCIL OF THE CITY OF SOUTH FULTON HEREBY**
32 **ORDAINS** as follows:

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34 **Section 1:** The City of South Fulton Code of Ordinances, Title 6, Health and
35 Sanitation, is hereby amended by creating a new Section 6-4010, Abatement of Dead
36 and Diseased Trees, to Chapter 3, Nuisances, which shall read as follows:

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38 **TITLE 6 – HEALTH AND SANITATION**

39
40 **CHAPTER 4 – NUISANCES**

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43 **Sec. 6-4010. Abatement of Dead and Diseased Trees.**

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45 The provisions of this section shall apply to all properties in the city, as follows:
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- (1) Generally. Any dead or diseased tree or part of a tree is a nuisance when, by reason of such condition, natural forces may, more readily than if such tree or part thereof were live or not diseased, fell or blow such tree or part thereof onto the public ways or property, off of the property of the owner of such tree, and thereby imperil life or property or impede traffic. When a dead or diseased tree which is alleged to constitute a nuisance is brought to the attention of the city arborist or code enforcement officer, the city arborist or code enforcement officer, in their discretion, may submit through the director, Community Development Services a written opinion to commence nuisance abatement proceedings under this section. Commencing abatement proceedings under this section shall not prevent nor preclude the city or code enforcement from alternatively and/or simultaneously initiating abatement proceedings in accordance with any other provision of the city code or state law.
- (2) Notice to owner to remedy conditions; failure to comply. The city arborist or code enforcement officer shall give written notice to the owner or the person in possession, charge or control of the property where a tree nuisance as defined in this section exist, station that in the city arborist's opinion the tree or part of a tree does constitute a nuisance that shall be removed, and requesting that such removal be done within a reasonable time to be specified in such a notice. In no event shall such a reasonable time exceed ten working days. Such notice shall further state that unless the tree or part thereof is voluntarily removed within the time specified, the director may cause summons to be issued requiring the party notified to appear in the municipal court to have their determined whether the tree or part of a tree involved constitute a nuisance and should be abated. If the tree is not removed within the time specified by the city arborist or code enforcement officer, the director may cause the owner of such tree, or person in possession, charge or control thereof, to be summoned to appear before the judge of the municipal court to determine whether or not the tree or part of a tree involved constitutes a nuisance.
- (3) Hearing; failure to comply with order to abate. If upon such a hearing as provided for before the judge of the municipal court, the judge shall find that the tree or part of a tree constitutes a nuisance and orders the defendant to abate the same within a specified time, then each ten days that the conditions adjudicated to be a nuisance by the judge are maintained subsequent to the expiration of the time fixed in the judgement of the judge the same to be abated shall constitute an offence.
- (4) Emergencies. Such nuisance trees pose immediate hazard and, because of imminence of danger, are too great of a risk to leave standing while standard procedures for giving notice to take place. In such cases where danger to the public is imminent, the city arborist or director shall have the right, but not the obligation, to enter the property and abate the nuisance, and the reasonable costs of such work, as documented by the city arborist. The department of

Community Development Services shall have the authority to obtain reimbursement from the property owner.

Section 3. It is hereby declared to be the intention of the City Council that: (a) All sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the City Council to be fully valid, enforceable and constitutional.

(b) To the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. No section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Resolution.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the City Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance.

Section 4. All Ordinance and Resolutions in conflict herewith are hereby expressly repealed.

Section 5. The City Attorney, City Clerk and contracted City Codifier are authorized to make non-substantive formatting and renumbering edits to this ordinance for proofing, codification, and supplementation purposes. The final version of all ordinances shall be filed with the clerk.

Section 6. The effective date of this Ordinance shall be on the date as set forth under Sec. 3.21 of the City Charter unless provided otherwise by applicable local, state and/or federal law.

THIS ORDINANCE so adopted this 8th day of October 2019.

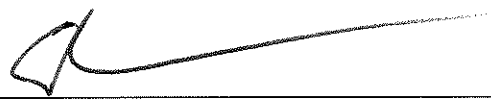
CITY OF SOUTH FULTON, GEORGIA


WILLIAM "BILL" EDWARDS, MAYOR

ATTEST:


S. DIANE WHITE, CITY CLERK

APPROVED AS TO FORM:


EMILIA C. WALKER, CITY ATTORNEY



The foregoing Ordinance No. 2019-028 was moved for approval by Councilmember Jackson. The motion was seconded by Councilmember Baker, and being put to a vote, the result was as follows:

	AYE	NAY
William "Bill" Edwards, Mayor	<u> </u>	<u> </u>
Mark Baker, Mayor Pro Tem	<u> X </u>	<u> </u>
Catherine Foster Rowell	<u> X </u>	<u> </u>
Carmalitha Lizandra Gumbs	<u> X </u>	<u> </u>
Helen Zenobia Willis	<u> X </u>	<u> </u>
Gertrude Naeema Gilyard	<u> X </u>	<u> </u>
Rosie Jackson	<u> X </u>	<u> </u>
khalid kamau	<u> X </u>	<u> </u>